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U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 I'ye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

[redacted]

File: [redacted] Office: California Service Center Date: JUN 21 2002

IN RE: Petitioner: [redacted]
Beneficiary:

Petition: Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the "Act"), 8 U.S.C. 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. 1101(a)(27)(C)

IN BEHALF OF PETITIONER: [redacted]

PUBLIC COPY

INSTRUCTIONS:
This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of $110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Myra L. Rosenberg

Robert P. Wiemann, Director
Administrative Appeals Office

[redacted]

DISCUSSION: The approved immigrant visa petition was revoked by the District Director, San Francisco, California. The matter is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is a church. It seeks classification of the beneficiary as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act (the "Act"), in order to employ her as a "youth and outreach missionary" in exchange for room and board and stipend estimated at a value of $1,500 per month.

The petition was filed on March 27, 1997, and was approved on June 19, 1997. Upon conducting an adjustment of status interview with the beneficiary, the District Director determined that the petition had been approved in error. The director found, in pertinent part, that the beneficiary had been residing in the United States since December 1991 and could not therefore have been continuously employed in a religious occupation in Korea as claimed in the visa petition documentation.

The director properly served the petitioner with a notice of intent to revoke dated May 14, 1999. The director reviewed the petitioner's response to the notice and found it insufficient to overcome the stated grounds for revocation. The director revoked the petition on June 25, 1999.

On appeal, an official of the petitioner explained that their attorney failed to accompany the beneficiary to her interview. The official requested that the beneficiary have a second interview with a new Korean interpreter. The official also submitted several testimonials to the beneficiary's character.

After a review of the record of proceeding in this matter, it must be concluded that the petitioner has failed to overcome the grounds for revocation. The beneficiary was not continuously employed in a religious occupation in Korea for the two years immediately preceding the filing of the petition as required by 8 C.F.R. 204.5(m)(1). At the interview, the beneficiary provided specific dates and addresses of her actual residence in the United States during the two-year period. The statement on appeal is wholly inadequate to overcome this adverse evidence.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. Here, the petitioner has not sustained that burden.

ORDER: The appeal is dismissed.